

JPP Report on Retaliation – Preliminary Outline

I. Introduction

A. Why Focusing on Retaliation Matters

1. Issue related to sexual assault gained attention this year
2. Effect of Retaliation on Victims of Crime
3. Fear of Retaliation Impacts Reporting of Sexual Assault

B. Purpose of this report

II. Continuum of Retaliation: Definitions & Concepts

A. Continuum of Retaliation: Ranges from victim perception of negative reactions to criminal retribution – terms JPP will be using for this report

B. Is there a problem/inconsistency with the definitions in the NDAA, DoD, and Services regulations & why is that important¹

III. Scope of the Problem

A. Reports on the Problem of Retaliation

1. POTUS Report (Dec 14) – footnote the definitions they use are ???
2. DoD SAPRO Report (Apr 15 & previous annual reports)
3. Human Rights Watch Report (May 15)

B. No Centralized Tracking System for Reports of Retaliation²

C. Perspectives on the Scope of the Problem in the Military

1. Victims
2. Support Personnel (SARCs, VAs, SVCs)
3. Commanders & NCOs
4. Experts & Academics³

IV. Effects of Retaliation

A. Why it's important to address the 62% number

¹ Issue 1 – definitions of retaliation

² Issue 2 – data collecting and reporting requirements

³ Issue 3 – best practices identified by experts

- B. Incidents of retaliation and impact on victims
- C. Perception is reality to victims of sexual assault
- D. Fear of retaliation impacts reporting

V. Protections & Prevention

- A. Statutes: Military Whistleblower Protection Act & Crime Victims’ Rights
- B. Prevention Tools, Training, Campaigns⁴

VI. Procedures to Respond to Retaliation in the Military

- A. Victim Support Resources to Assist SA Crime Victims with Retaliation Claims⁵
 - 1. Role of SARCs and VA’s
 - 2. Victims’ Counsel
 - 3. Role of Trial Counsel and VWAP
 - 4. Roles of EO Personnel
 - 5. Roles of Services’ Case Management Groups⁶
- B. Options for Reporting Retaliation (Channels, hotlines)⁷
- C. Responding to and Investigating Reports of Retaliation⁸
 - 1. Command
 - 2. IG (GAO Report)
 - 3. MCIOs
 - 4. Standard for Substantiating an Allegation⁹
 - 5. Responsibility to Notify Victims¹⁰
 - 6. Appellate Process¹¹
- D. Victim Drop out rate

⁴ Issue 4 – training program, RFI 67, 70

⁵ Issue 5 – adequacy of victim support resources, RFI 71

⁶ Issue 6 – role of CMGs

⁷ Issue 7 – reporting process, RFI 69, 72, 73, 68

⁸ Issue 8 – investigations, RFI 74, 75, 77

⁹ RFI 76

¹⁰ RFI 78

¹¹ RFI 79

E. Actions Available in Substantiated Cases of Retaliation

1. Holding Offenders Accountable¹²
2. Remedies for Victims of Retaliation (Expedited Transfer, Compensation for Property Damage, Records Corrections)¹³

VII. Recent & Pending Legislative Proposals¹⁴

A. FY13, 14 & 15 NDAAAs

B. S.1130, Legal Justice for Service Members Act (*sponsored by Sen Boxer*)

C. H.R. 2026, The Support Uniformed Patriots; Prevent Offenses and Restore Trust Act (*sponsored by Congresswoman Tsongas and Congressman Turner*)

D. DoD Report on Prohibiting Retaliation (June 2014) recommends no new punitive article for retaliation

VIII. JPP Recommendations

¹² Issue 9 - sanctions for offenders

¹³ Issue 10 - RFI 80 BCMRs

¹⁴ Issue 11 - FY 13 NDAA, S.1130 or H.R. 2026